IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
THURSDAY, THE SEVENTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE
and
THE HON'BLE MS JUSTICE G.ROHINI

WRIT APPEAL NO : 921 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 19/04/2004 in WP NO : 19888 OF 2003 on the file of the High Court.)

Between:
Tibirisetti Yesubabu, S/o. Veerraju, Hindu,
R/o. D.No. 10-10, ramakrishnapuram, Rajupalem Post, Kirlampudi Mandal,
East Godavari District.

..... APPELLANT

AND

1 Gode Venkateswara Rao, S/o. Sathi Raju, Hindu,
R/o. Ramakrishnapuram Village, Rajupalem Post, Kirlampudi Mandal,
E.G. District.
2 Election Officer-cum-Mandal Development Officer, Kirlampudi Mandal,
Parishad, Kirlampudi, E.G. District.
3 Election Officer-cum-Lecturer Head of the Department Economics
by name K. Venkateswara Rao, M.R. College, Peddapuram, E.G. District.
4 District Election Authority-cum-District, Collector,
E.G. District. Kakinada.

.....RESPONDENT(S)

For the Appellant:MR.C.V.NAGARJUNA REDDY, advocate

For the Respondent Nos2 to 4. :GP FOR PANCHAYAT RAJ & RURAL DEV.

For the respondent No.1 : Sri B.Somasekhar, Advocate

The Court Made the Following ORDER:

(per The Hon'ble The Chief Justice Sri Devinder Gupta)

We have heard the learned counsel for the appellant and gone through the impugned order passed by the learned single Judge dismissing the writ petition filed by the appellant calling in question the order of Election Tribunal-cum-Junior Civil Judge in EOP.No.4 of 2001. The only point urged before us by the learned counsel for the appellant is that because of the provision of Section 22A of the Panchayat Raj Act the question as regards disqualification of the appellant could not have been adjudicated upon by the Election Tribunal-cum-Junior Civil Judge since the only authority to decide such question under Section 22A of the Act being District Court. He further alleged that when Section 22A of the Act was brought on statute book no corresponding amendment was made in the Election Tribunals In Respect Of Gram Panchayats, Mandal Parishads and Zilla Parishads Rules, 1985. He urged that though the election petition is maintainable before the Junior Civil Judge under the said Rules but the question whether the appellant is not qualified or had become disqualified under Sections 17, 18 and 19 of the Act could be adjudicated upon only by the District Court.

Learned single Judge considered this question and turned down the same on the ground that as on the date when election petition was filed, election tribunal had jurisdiction and merely because Section 22A was inserted into the statute book in view of non-obstante clause in Section 233 of the Act and the Rules made thereunder, it is very difficult to comprehend that proceedings which was initiated before the election tribunal having jurisdiction could not have continued before it after the amendment. The Rules have been framed under Section 233 of the Act read with Section 268 of the Act and Section 233 of the Act says that no election held under the Act shall be called in question except by an election petition presented to such authority and in accordance with such

rules as may be made in this behalf. Rules framed confer jurisdiction on District Munsiff appointed under the A.P. Civil Courts Act, 1972 to entertain and decide the election petitions and what was pending before the election tribunal was election petition filed by the respondent who had questioned the election of the appellant on number of grounds including the one that the appellant was not qualified because of Section 18 of the Act he having three children. Appellant has not questioned the findings on merits that he was having three children at the time of filing of nomination. Thus he suffered disqualification under Section 19 (3) of the Act and rightly the election tribunal continued to deal with and decide the same on merits. We see no ground to interfere with well reasoned order of the learned single Judge.

Writ appeal is dismissed.

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DEVINDER GUPTA, CJ

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G.ROHINI, J

17th June, 2004.
nmr

DEPUTY REGISTRAR

//true copy//

SECTION OFFICER

To

1. Gode Venkateswara Rao, S/o. Sathi Raju, Hindu,
   R/o. Ramakrishnapuram Village, Rajupalem Post, Kirlampudi Mandal,
   E.G. District.
2 Election Officer-cum-Mandal Development Officer, Kirlampudi Mandal,
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E.G. District.

4 District Election Authority-cum-District, Collector,
E.G. District. Kakinada.

5. The GP for Panchayat Raj & Rural Development, High Court of A.P., Hyderabad. (OUT)

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